

The Honorable Justin L. Quackenbush

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Gregory A. Beadles,

Plaintiff,

vs.

**ReconTrust Company, N.A., Mortgage Electronic
Registration Systems, Inc., A Delaware Corp.,
American Mortgage Network, Inc., A Delaware
Corp., Countrywide Bank, FSB, DOES 1 – 10
Federal National Mortgage Association.**

Defendants.

Case No.: CV-12-00378-JLQ

COMBINED JOINT STATUS REPORT AND DISCOVERY PLAN

Pursuant to the Court's Order of June 20, 2012, the parties conferred regarding matters involved in the litigation.

1. Conference of Parties. The following parties were present through their counsel of record at the conference as follows:
 - a. For Plaintiff Gregory Beadles: John A. Long, John Long Law PLLC;
 - b. For Defendants Federal National Mortgage Association (“Fannie Mae”), ReconTrust Company, N.A. (ReconTrust”), Mortgage Electronic Registration Systems, Inc. (“MERS”), and Bank of America, N.A., successor by merger to Countrywide Bank, FSB and BAC Home Loans Servicing, LP (“BAC”): John S. Devlin, III, Lane Powell PC;

- 1 c. For Defendant American Mortgage Network, Inc.: Tiffany Scott Connors, Lane
 2 Powell PC.
- 3 2. Whether parties have notified court of their consent to a magistrate hearing the case. The
 4 parties have not consented to hearing by a magistrate judge.
- 5 3. Whether jurisdiction and venue exist: The parties agree that jurisdiction lies with the United
 6 States District Court for the Eastern District of Washington since the suit involves title to real
 7 property located in Spokane County, Washington.
- 8 4. Whether service of process is complete: The parties agree that service of process is
 9 complete.
- 10 5. A brief description of the claims and defenses: Plaintiff's claims arise from the non-judicial
 11 trustee sale of his home located in Spokane County, Washington during 2011. Plaintiff
 12 asserts claims for Wrongful Foreclosure, Breach of Duty to Act in Good Faith as a Neutral
 13 Third Party -Against Recon Trust, Negligent and/or Intentional Misrepresentation, Violation
 14 of Washington Consumer Protection Act, Quiet Title and Slander of Title.
- 15 6. A brief description of defenses: Defendants' defenses derive from Washington State
 16 statutory and case law. Defendants deny Plaintiff's claims. Defendant American Mortgage
 17 Network denies that Plaintiff can state or has stated a claim against AMN upon which relief
 18 can be granted. The Complaint admits AMN gave up all rights in its loan and did not service
 19 the loan after 2010. But the Complaint seeks relief from a non-judicial foreclosure events
 20 occurring after the assignment of the loan from AMN to BAC Home Loan Servicing LP.
 21 Those events started with the March 2011 recording of a notice of trustee's sale and
 22 culminated with a trustee's sale conducted on July 1, 2011. These events occurred after
 23 AMN's dealings with Plaintiff. There is not a single allegation in the Complaint that
 24 implicates AMN. Defendants Federal National Mortgage Association ("Fannie Mae"),
 25 ReconTrust Company, N.A. ("ReconTrust"), Mortgage Electronic Registration Systems, Inc.
 26 ("MERS"), and Bank of America, N.A., successor by merger to Countrywide Bank, FSB and
 27 BAC Home Loans Servicing, LP ("BAC") deny liability and plan to file a motion to dismiss
 28 Plaintiff's claims under FRCP 12(b)(6).
- 29 7. Whether a statute's constitutionality is being challenged: None noted by the parties.
- 30 8. Any issues that should be certified to a state supreme court: None noted by the parties.

9. Suggested deadline for amending the pleading:

- 1 a. Plaintiffs' position: 70 days before discovery cutoff.
 2 b. Defendants' Position: 70 Days before discovery cutoff (Proposed)

3 10. Suggested deadline for adding new parties: 70 days before discovery cutoff4 11. Whether all non-government corporate parties filed the necessary ownership statement: The
 5 parties agree that this was completed.6 12. Whether the case involves a minor or incompetent party: Not applicable.

7 13. Discovery Plan and Proposed Deadlines. The parties do not believe that this is a complex
 8 factual case and believe that discovery can be completed in approximately 10 months.
 9 Plaintiff anticipates engaging in written discovery and, thereafter, fact and expert witness
 10 depositions. The parties do not believe that any special discovery mechanisms or timings are
 11 required. Defendant, American Mortgage Network Inc., believe that the claims asserted
 12 against them are expressly barred by FRCP 8(a) and FRCP 12(b)(6), and that discovery
 13 should be stayed until resolution of their motion to dismiss. American Mortgage Network,
 14 Inc.'s motion is noted for consideration on August 3, 2012. Defendants Federal National
 15 Mortgage Association ("Fannie Mae"), ReconTrust Company, "N.A., successor by merger to
 16 Countrywide Bank, FSB and BAC Home Loans Servicing, LP ("BAC") plan to note their
 17 motion to dismiss for consideration in September 2012. Plaintiff agrees not to seek
 18 discovery until resolution of Defendant American Mortgage Network's motion to dismiss.

19 The parties propose the following pretrial schedule:

- 20 a. Suggested deadline for initial disclosures: 15 days after the Court's ruling on
 21 Defendants Federal National Mortgage Association ("Fannie Mae"), ReconTrust
 22 Company, N.A. (ReconTrust"), Mortgage Electronic Registration Systems, Inc.
 23 ("MERS"), and Bank of America, N.A., successor by merger to Countrywide Bank,
 24 FSB and BAC Home Loans Servicing, LP ("BAC") planned Motion to Dismiss.
 b. Subjects on which discovery may be needed: Plaintiffs contend that fact discovery
 will be needed regarding the identity of the promissory note holder for each loan from
 origination to the time of foreclosure, any assignment of interests, the identity of the
 beneficiary for each promissory note when the notice of trustee sale was filed and the
 identity of the beneficiary of plaintiffs' mortgage payments from August, 2006 to

1 July, 2011. Defendants dispute that any of this discovery is appropriate and believe
 2 that should this case survive a motion to dismiss that the only possible topics for
 3 discovery are the foreclosure procedures that took place and Plaintiff's default.

- 4 c. Any issues about preserving discoverable information: None noted by the parties.
- 5 d. Claims of privilege or protection: None noted by the parties.
- 6 e. Proposed modification to the standing discovery procedures: No proposal is made at
 this time.
- 7 f. Suggested expert disclosure deadlines:
 - 8 i. 90 days before discovery cutoff for Plaintiff's experts;
 - 9 ii. 60 days before discovery cutoff for Defendants' experts; and
 - 10 iii. 30 days before discovery cutoff for rebuttal expert witnesses.
- 11 g. Suggested discovery cut-off: 150 days before trial.

12 14. Anticipated motions and suggested dispositive motion filing deadline: A deadline of 120
 13 days before trial was agreed to. Defendants Federal National Mortgage Association ("Fannie
 14 Mae"), ReconTrust Company, N.A. ("ReconTrust"), Mortgage Electronic Registration
 15 Systems, Inc. ("MERS"), and Bank of America, N.A., successor by merger to Countrywide
 16 Bank, FSB and BAC Home Loans Servicing, LP ("BAC") will bring a motion to dismiss
 17 Plaintiff's action; and, if the action proceeds thereafter Defendants state that a motion for
 18 summary judgment may be appropriate in this matter.

19 15. Trial

- 20 a. Suggested trial date: April 1, 2013 or later.
- 21 b. Length of trial: Three days.
- 22 c. Bifurcation: No.
- 23 d. Need for special technology: No.

24 16. The likelihood for settling the case and date for meaningful dispute resolution: The parties
 25 are willing to consider mediation at an appropriate time.

26 17. Any other matters. None noted.

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DATED this 19th Day of July, 2012

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1 **CERTIFICATE OF SERVICE**
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4 The undersigned attorney certifies that on the 19th day of July, 2012, I electronically filed
5 the foregoing with the Clerk of the Court using the CM/ECF system which will send notification
6 of such filing to the following:
7

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